

operators (hereinafter collectively referred to as “air carriers”) who are participants in the Civil Reserve Air Fleet program (CRAF). This regulation provides the authority and methodology for such ratemaking and designates the United States Transportation Command (USTRANSCOM) as the rate setter for negotiated uniform rates for DoD airlift service contracts in support of the CRAF. This methodology supports a viable CRAF mobilization base that ensures sufficient capacity in time of war, contingency and humanitarian relief efforts.

§ 243.2 Applicability.

This section governs all contracts with the Department of Defense where awards to the air carriers, either through individual contracts or teaming arrangements, are commensurate with the relative amount of airlift capability committed to the Civil Reserve Air Fleet (CRAF).

§ 243.3 Definitions.

Air carrier. “Air carrier” is defined in 49 U.S.C. 40102(a)(2) as “a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation.” Specifically to this ratemaking procedure, individuals or entities that operate commercial fixed and rotary wing aircraft in accordance with the Federal Aviation Regulations (14 CFR chapter I) or equivalent regulations issued by a country’s Civil Aviation Authority (CAA) and which provide air transportation services are included. Commercial air carriers under contract with, or operating on behalf of, the DoD shall have a Federal Aviation Administration (FAA) or CAA certificate. The policy contained in this directive applies only to air carriers operating fixed wing aircraft under CRAF international airlift services.

Aircraft class. Distinct categories of aircraft with similar broad characteristics established for ratemaking purposes. These categories include aircraft such as large passenger, medium passenger, large cargo, etc. They are determined by USTRANSCOM and identified in Published Uniform Rates and Rules for International Service Appendix A (Published in FedBizOps).

Civil Reserve Air Fleet International Airlift Services. Those services provided in support of the Civil Reserve Air Fleet contract, whereby contractors provide personnel, training, supervision, equipment, facilities, supplies and any items and services necessary to perform international long-range and short-range airlift services during peacetime and during CRAF activation in support of the Department of Defense (DoD). Implements the Fly CRAF Act. See 49 U.S.C. 41106.

Civil Reserve Air Fleet (CRAF) Assured Business Guarantees. See 10 U.S.C. 9515.

Civil Reserve Air Fleet (CRAF) Program. The Civil Reserve Air Fleet (CRAF) is a wartime readiness program, based on the Defense Production Act of 1950, as amended, (50 U.S.C. App. 2601 *et seq.*), and Executive Order 13603 (National Defense Resource Preparedness), March 16, 2012, to ensure quantifiable, accessible, and reliable commercial airlift capability to augment DoD airlift and to assure a mobilization base of aircraft available to the Department of Defense for use in the event of any level of national emergency or defense-orientated situations. As a readiness program, CRAF quantifies the number of passenger and cargo commercial assets required to support various levels of wartime requirements and thus allows DoD to account for their use when developing and executing contingency operations/war plans. The CRAF is composed of U.S. registered aircraft owned or controlled by U.S. air carriers specifically allocated (by FAA registration number) for this purpose by the Department of Transportation. As used herein, CRAF aircraft are those allocated aircraft, which the carrier owning or otherwise controlling them, has contractually committed to the DoD, under stated conditions, to meet varying emergency needs for civil airlift augmentation of the military airlift capability. The contractual commitment of the aircraft includes the supporting resources required to provide the contract airlift. In return for a commitment to the CRAF program, airlines are afforded access to day-to-day business under various DoD contracts.

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Historical Costs. Those allowable costs for airlift services for a 12 month period, gathered from Department of Transportation (DOT) Uniform System of Accounts and Reports (USAR) (hereinafter referred to as “Form 41”) reporting (required by 14 CFR parts 217 and 241).

Long-range aircraft. Aircraft equipped with navigation, communication, and life support systems/emergency equipment required to operate in trans-oceanic airspace, and on international routes, for a minimum distance of 3,500 nautical miles, while carrying a productive payload (75 percent of the maximum payload it is capable of carrying.) Additionally aircraft must be equipped and able to operate worldwide (e.g., in EUROCONTROL and North Atlantic Minimum Navigation Performance Specification airspace and possess the applicable VHF, Mode-S, RNP, and RVSM communication and navigation capabilities.)

Memorandum of Understanding with attachment (MOU). A written agreement between certificated air carriers willing to participate in the CRAF program and USTRANSCOM with the purpose of establishing guidelines to facilitate establishment of rates for airlift services (e.g., passenger, cargo, combi, and aeromedical evacuation.)

Operational data. Those statistics that are gathered from DOT Form 41 reporting, USTRANSCOM reported monthly round trip (S-1) and one-way (S-2) mileage reports, monthly fuel reports or other data deemed necessary by the USTRANSCOM contracting officer.

Participating carriers. Any properly certified and DoD approved air carrier in the CRAF program which complies with the conditions of the MOU and executes a USTRANSCOM contract.

Projected rates. The estimated rates proposed by carriers based upon historical cost and operational data as further described in §243.4(a) through (g).

Ratemaking methodologies. The methodologies agreed to by USTRANSCOM and air carriers in the MOU for the treatment of certain cost elements to determine the estimated price for the DoD for airlift services.

Short-range aircraft. Aircraft equipped for extended over-water operations and

capable of flying a minimum distance of 1,500 nautical miles while carrying a productive payload (75 percent of the maximum payload it is capable of carrying).

§ 243.4 Ratemaking procedures for Civil Reserve Air Fleet contracts.

The ratemaking procedures contained within this section apply only to Airlift Service contracts awarded based on CRAF commitment. Competitively awarded contracts may be used by the Department of Defense when it considers such contracts to be in the best interest of the government. See §§243.5(b) and 243.6 for exclusions to ratemaking.

(a) *Rates of payment for airlift services.* USTRANSCOM may utilize the principles contained in the Federal Acquisition Regulation (FAR), as supplemented, in establishing fair and reasonable rate of payments for airlift service contracts in support of CRAF. Specific exceptions to FAR are noted in §243.8 of this rule. To facilitate uniformity within the ratemaking process, USTRANSCOM will execute a MOU with air carriers to institute the basis for methods upon which the rates will be established. An updated MOU will be executed as warranted and published for public comment on FedBizOps. Under the MOU, air carriers agree to furnish historical cost and operational data, as well as their projected rates for the ensuing fiscal year. USTRANSCOM will conduct a review of air carriers’ historical and projected costs and negotiate with the carriers to establish rates using ratemaking methodologies contained in the attachment to the MOU.

(b) *Obtaining data from participating carriers.* USTRANSCOM will annually notify those participating carriers to provide data using the USTRANSCOM cost package and related instructions. The data provided includes pricing data, cost data, and judgmental information necessary for the USTRANSCOM contracting officer to determine a fair and reasonable price or to determine cost realism. Carriers will be provided 60 calendar days to act upon the request.

(c) *Analysis.* (1) USTRANSCOM will consider carrier reported DOT Form 41